

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

|                                      |   |                                       |
|--------------------------------------|---|---------------------------------------|
| UNITED STATES OF AMERICA,            | ) | No. CR 05-00611 WHA                   |
|                                      | ) |                                       |
| Plaintiff,                           | ) | <del>[PROPOSED]</del> ORDER EXCLUDING |
|                                      | ) | TIME UNDER THE SPEEDY TRIAL           |
| v.                                   | ) | ACT, 18 U.S.C. § 3161 <i>ET SEQ.</i>  |
|                                      | ) |                                       |
| DALE SCOTT HEINEMAN, <i>et al.</i> , | ) |                                       |
|                                      | ) |                                       |
| Defendants.                          | ) |                                       |
|                                      | ) |                                       |

Based upon the record made at the parties' appearance before this Court on April 24, 2007, and good cause appearing,

IT IS HEREBY ORDERED that the time from April 24, 2007 to October 15, 2007 is excluded from the time within which trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, against defendants Dale Scott Heineman, Kurt F. Johnson, and William F. Julian, on grounds of: (a) the need for effective preparation by counsel and *pro se* defendants Heineman and Johnson pursuant to 18 U.S.C. § 3161(h)(8)(b)(iv), taking into account the exercise of due diligence, to analyze more than 144,000 pages of discovery, Rule 17(c) subpoenaed records, and materials requested that were the subject of a motion to strike before Magistrate Judge Wayne D. Brazil, in preparation of pre-trial motions and trial; (b) the complexity of this case pursuant to 18 U.S.C. § 3161(h)(8)(B)(ii), where a 53-count superseding indictment (after dismissal of certain

~~[PROPOSED]~~ ORDER RE: EXCLUSION OF TIME  
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1 bank fraud counts without prejudice) charges seven defendants with, *inter alia*, mail fraud, bank  
2 fraud, and conspiracy to commit mail fraud, wire fraud and bank fraud, more than 145,000 pages  
3 of discovery and audio materials have been produced, and the conduct alleged extends over a  
4 substantial period of time; (c) for continuity of counsel, given the limited availability of counsel  
5 for defendant Julian, currently engaged in a state homicide trial that is scheduled to complete on  
6 June 8, 2007, and unavailable from August 10-20, 2007 and from September 25 to October 8,  
7 2007, as well as the unavailability of government counsel from September 8-20, 2007; and (d)  
8 the ends of justice are served and outweigh the best interest of the public and the defendants in a  
9 speedy trial by excluding this period of time under the Speedy Trial Act pursuant to 18 U.S.C. §  
10 3161(h)(8)(A), for all the foregoing reasons as well as judicial economy.

11 Based upon these FINDINGS, IT IS FURTHER ORDERED that the time from which  
12 trial must commence under the Speedy Trial Act is excluded as to defendants Heineman,  
13 Johnson and Julian from April 24, 2007 to October 15, 2007 pursuant to 18 U.S.C. §§  
14 3161(h)(8)(A), 3161(h)(8)(B)(ii), and 3161(h)(8)(B)(iv).

15 IT IS SO ORDERED.

16 Dated: April <sup>25</sup>, 2007

HON. WILLIAM E. ALSUP  
UNITED STATES DISTRICT JUDGE

